

REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, claims 1 and 8 have been amended for clarity.

The Examiner has rejected claims 1-4, 6-8, 10, 11, 15-19, 21 and 22 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0169879 A1 to Akins III et al. The Examiner has further rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Akins III et al. In addition, the Examiner has rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Akins III et al. in view of U.S. Patent 5,940,756 to Sibecas et al. Furthermore, the Examiner has rejected claims 12 and 13 under 35 U.S.C. 103(a) as being unpatentable over Akins III et al. in view of U.S. Patent 6,223,045 to Valentine et al. The Examiner has further rejected claims 14 and 20 under 35 U.S.C. 103(a) as being unpatentable over Atkins III et al. in view of U.S. Patent 7,369,660 to Kahn et al.

The Akins III et al. publication discloses a method and apparatus for geographically limiting serviced in a conditional access system. Thereto an Entitlement Agent (a function at the provider) determines the location of a user terminal. The agent sends an entitlement message (111 in Fig. 1) to the specific terminal, which message may comprise said location (point in a X, Y geographic coordinate system, see [311, 313]). When accessing content, an Entitlement Control Message is sent with the program (ECM 107 and program 109 in Fig.1) to the set top box (113) of the

user. The ECM may indicate an area to blackout (e.g., 2236 in Fig.20). An application (see [0323]) determines if the location of the terminal is within the blackout area.

As noted in MPEP §2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In the conventional system of Akins III et al., the process of determining the actual location of the user terminal is a task to be performed by the service provider. Akins III et al. assumes that such location is known to the provider (e.g., due to a payment or a subscription). Subsequently, an entitlement message is sent to the receiver that contains its location. It is to be noted that Akins III et al. does not provide any method for the terminal to determine its own location, but requires the service provider to first determine, and subsequently inform the terminal of its location.

The current invention requires that the second data is sent via a network only to locations within the first area. Subsequently, the receiver is arranged to receive the second data and autonomously determine its location based on receiving said

second data from the first network, and matching the received second data with first data previously provided to the receiver. Hence the provider does not need to determine the actual location of individual receivers, and does not send dedicated messages to each receiver.

In particular, claim 1 includes the limitation "determining second data for identifying at least one location within the first geographical area in dependence on first data". The Examiner has identified "Akins: Fig 1:107, paragraph 0056 lines [10-15]".

Applicants believe that the Examiner is mistaken. In particular, the noted section of Akins III et al. states:

"As shown in detail with regard to set top box 113(0), set top box 1134 includes decryptor 115, which uses a control word 117 as a key to decrypt encrypted instance 105. Control word 117 is produced by control word generator 119 from information contained in entitlement control message 107 and information from authorization information 121 stored in set-top box 13. For example, authorization information 121 may include a key for the service and an indication of what programs in the services the subscriber is entitled to watch."

As should be clear from the above, there is no disclosure or suggestion of "determining second data for identifying at least one location within the first geographical area in dependence on first data".

Further, claim 1 includes the limitation "sending the second data via a first network only to locations within the first geographical area". In regard thereto, the Examiner has identified "Fig 3:323".

Applicants submit that while Fig. 3 shows a second data being sent to a particular service reception (DHCT), there is no disclosure or suggestion that the second data is sent via a first network "only to locations within the first geographical area".

With respect to Akins III et al., the objective technical problem is to avoid the burden for the service provider of individually determining the location of each receiver.

The solution of the subject invention essentially is to use a separate network that only sends the second data in a restricted local area (the first network). The second data is matched with first data to verify that the receiver is indeed to get access to the content for the first area as indicated by said first data. Advantageously the actual content can be freely sent across a large area (e.g., by satellite), while each receiver can only get access if it also receives the second data via said first network (independently of receiving said content).

In Akins III et al., the skilled man only finds discussions about geographically limiting access by first determining the individual location of each receiver then transmitting said location data to each receiver separately. Akins III et al. clearly teaches that the provider should control, i.e., determine and send, the geographical location data to the set top box. There is no suggestion at all to modify the receiver to detect its own location. In particular, there is no knowledge of receiving data from a further network that only locally sends the information

that should match a selected first geographical area. Such knowledge cannot be derived from Akins III et al.

The Examiner now states:

"Applicant's argument regarding claim 1 on page 9 paragraph 3 - page 10 paragraph 2 about Prior art does not provide any method for the terminal to determine its own location" as it service provider informs the terminal about its location & applicant's invention where "the receiver is arranged to receive the second data and autonomously determine its location based on receiving said second data with first data" are different, however, the examiner respectfully disagrees as in both the cases receiver receives the second data and first data from the network (or service provider) and location is autonomously determined as cited in the rejection above."

Applicants submit that the Examiner is mistaken. In the subject invention, the second data is sent via a first network only to locations within the first geographic area. As such, only receivers in the locations within the first geographic area are able to receive the second data. The receiver must then compare (match) the second data, received via the first network, with data provided to the receiver. It was Applicants' intention with this language to denote that the first data and the second data arrive at the receiver via different routes, i.e., the second data is transmitted via the first network, and the first data is provided to the receiver. Claim 1 as presently amended states "providing the first data to a receiver not via the first network". This is supported in the specification as filed on page 8, line 29 to page 9, line 1 (whereas the second data is sent via the first network (see page 9, lines 1-12). In Akins, III et al., both ECM (identified by the Examiner as the second data), and EMM

(identified by the Examiner as the first data), are sent to the receiver over the same transmission medium (network), i.e., transmission medium 112 in Fig. 1, trans. medium 331 in Fig. 3.

The Kahn et al. patent discloses methods and apparatus for distributing digital content, in which a Smart Card is used as a storage medium. However, Applicants submit that Kahn et al. does not supply that which is missing from Akins III et al., i.e., among others, "determining second data for identifying at least one location within the first geographical area in dependence on the first data" and "sending the second data via a first network only to locations within the first geographical area".

The Sibecas et al. patent discloses a method for transmitting paging communication on a cellular communication system, in which GSM cell ID is provided. However, Applicants submit that Sibecas et al. does not supply that which is missing from Akins III et al., i.e., among others, "determining second data for identifying at least one location within the first geographical area in dependence on the first data" and "sending the second data via a first network only to locations within the first geographical area".

The Valentine et al. patent discloses satellite delivery of short message service (SMS) messages, in which a terrestrial mobile telephony network is provided as a first network. However, Applicants submit that Valentine et al. does not supply that which is missing from Akins III et al., i.e., among others, "determining second data for identifying at least one location within the first

geographical area in dependence on the first data" and "sending the second data via a first network only to locations within the first geographical area".

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-22, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by /Edward W. Goodman/
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611